

REMARKS

This Response is made to the Office action dated February 8, 2006. Claims 1-20 are currently pending. Claims 5, 6 and 11 were previously withdrawn in response to an election of species requirement. Applicants respectfully request reconsideration of the pending claims in view of the remarks presented below.

Claims 8-10 and 12-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,228,062 to Howell, et al. (the "Howell patent"). Applicants strongly disagree with the Examiner's position that the Howell patent shows a torque device used to rotate or "torque" a steerable guide wire to steer the guide wire in, for example, the vasculature of a patient. The Howell patent is merely directed to a device 10 used to split a sheath 36 which extends co-axially over a catheter 14 that is to be placed in the vascular system of a patient. The component (needle 24 and wire) identified by the Examiner as a guide wire in the Howell patent does not function as a guide wire as this term is known in the medical field. Rather, it is simply a needle attached to a wire (not shown) used to insert the catheter 14 into the patient. In use, the wire and needle 24 remain disposed within the lumen of the catheter 14 until the catheter 14 is inserted in the patient. Afterwards, the wire is pulled to remove the needle from the catheter. Thus, the wire and needle 24 of the Howell device cannot be reasonably construed as a conventional guide wire.

In the context of the present invention, the term "guide wire" is properly construed to mean an elongated component that can be used in combination with a number of medical devices, such as balloon catheters and atherectomy devices, just to name a few. The guide wire is generally used with the medical device to allow to be tracked along the guide wire from its free proximal end towards its end position within the patient's body, such that the guide wire acts as a guide for the positioning of the device. This construction of the term "guide wire" is consistent with the meaning understood by those skilled in the art. In general, guide wires are used to

find and secure a pathway through the artery and the stenotic lesion. They pass well into the channel and act as a guide to the subsequent passage of therapeutic devices. Simply put, the Howell patent fails to disclose the guide wire as the term is known to one skilled in the art.

Moreover, claim 8 recites that the side port is adapted to receive the proximal end of the sheath to remove the sheath from the guide wire through proximal retraction of the sheath through this side port. The Howell device is not designed to split from proximal retraction of the sheath, but rather, from distal retraction of the sheath which also moves the catheter 14 distally and further into the patient. This particular arrangement of components in the Howell device does not meet the structure recited in the claims. For at least these reasons, Applicants respectfully request the Examiner to withdraw the Howell patent as an anticipatory reference.

Claims 1-4, 7 and 15-20 were rejected under 35 U.S.C. § 103 as being unpatentable over FPD FR 2580504 to Pieronne (the "Pieronne reference") in view of the Howell patent. Applicants strongly disagree with the Examiner's position that the Pieronne reference discloses a torque device, no less a torque device with structure designed to shear a co-axially disposed sheath. The Examiner has identified the component bearing the reference numeral 19 as the torque device in the Pieronne reference. However, Applicants submit that the Examiner has misinterpreted this component. This component is not a torque device at all, but appears to be an end seal located at the proximal end of an inflation catheter 15. Therefore, since there is a complete lack of even a simple torque device in the Pieronne reference, there would be no motivation to combine the Pieronne reference with the Howell patent. Moreover, even if the references were combined, the resulting structure would not result in the structure recited in the claims at issue since, as addressed above, the Howell patent fails to disclose even the basic structure recited in the claims. Thus, Applicants respectfully request the

Examiner to withdraw the § 103 rejection based on the combination of the Pieronne reference with the Howell patent.

Applicants believe that in view of the patentability of the independent claims 1 and 8, previously withdrawn dependent claims 5, 6 and 11 should be allowed as well. Favorable consideration of these withdrawn claims is respectfully requested.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any fees payable in connection with this response to Deposit Account No. 06-2425. A duplicate copy of this document is enclosed.